SCGROUP
Incorporated

August 24, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

We write in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999 regarding forced access to buildings. We enclose six (6) copies of this letter, in addition to this original.

We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may adversely affect the conduct of our business and needlessly raise additional legal issues. We believe that forced building access is an unconstitutional taking of property. The Commission's public notice also raises a number of other issues that concern us.

Security Capital Group is in the commercial and residential real estate business. We are affiliated with 13 real estate companies which own thousands of properties nationally and internationally located.

We are aware of the FCC's consideration of a rule change that might require us to allow multiple telecommunications service providers to freely enter and use our properties to sell services to our tenants without our consent. We do not believe the FCC needs to act in this field because we are doing everything we can to satisfy our tenants' demands for access to telecommunications.

Some of the reasons we believe the FCC action is not necessary are outlined below:

- We, as building owners, are able to use our volumes and bargaining power to negotiate better telecommunications services for our tenants due to our high volume usage. Tenants alone would not have the bargaining power to negotiate with the telecommunications companies. These economies of scale are a value-added part of our services as landlords.

- We are in competition with many other buildings in our market and have an incentive to keep our properties up-to-date with the most advanced and cost effective telecommunications

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connections service providers. We have experts dedicated solely to serving customers in this area.

There is No Such Thing as "Nondiscriminatory" Access

- There are dozens of providers, but limited space in buildings means that only a handful of providers can install facilities in buildings. "Nondiscriminatory" access discriminates in favor of the first few entrants, creating a barrier to entry for small providers and future providers. Building owners want to enhance competition and be able to do business with all providers, not just the few giants of today.

- A building owner must have control over who enters the building, especially when there are multiple providers involved. A building owner faces liability for damage to building leased premises, and facilities of other providers, and for personal injury to tenants and visitors. A building owner is also liable for safety code violations. Allowing forced access, even misleadingly couched as "nondiscriminatory" access, shifts to the building owner the costs of correctly installing equipment in a way that will not harm the tenants or the physical premises

- There is no such thing as discriminatory building access because the terms of building access must necessarily vary. For example, a new company without a track record poses greater risks than an established one, so indemnity, insurance, security deposit, remedies and other terms may differ. The value of building space and other terms also depend on many factors, such as location and available space.

- Building owners must be vigilant for the qualifications and reliability of telecommunications providers in order to protect tenants. If something goes wrong, the customer is likely to blame the landlord, even if the fault lies with the telecommunications company. Our companies have frequently, and correctly, turned down service offers from undercapitalized companies with poor track records.

- "Nondiscriminatory" access amounts to federal rent control. Building owners often have no control over terms of access for Bell companies and other incumbents: they were established in a monopoly environment. The only fair solution is to let the new competitive market decide and allow owners to renegotiate terms of all contracts. A building owner must not be forced to apply old contracts with the Bell company as the lowest common denominator because the building owner had no real choice in negotiating those contracts.

- If carriers can discriminate by choosing which buildings and tenants to serve, building owners should be allowed to do the same. For example, we have no assurance that telecommunications companies will service our low-income apartment residents if the telecommunications companies can "cherry-pick" our upper-middle income properties.

Scope of Easements

- The FCC cannot expand scope of the access rights held by every incumbent carrier (the Bell-type companies) to allow every competitor to use the same easement or right-of-way. Grants in many buildings are narrow and limited to facilities owned by the grantee.

- If owners had known government would allow other companies to piggyback on the incumbent, they would have negotiated different terms. Expanding rights now would be an unconstitutional taking.

Demarcation Point

- The current demarcation point rules are working because they offer flexibility. There is no need to change them.

- Each building is a different case, depending on owner's business plan, nature of property and nature of tenants in the building. Some building owners are prepared to be responsible for managing wiring and others are not.

Exclusive Contracts

- Our companies are very selective in using exclusive contracts. Typically, they only relate to cable TV services where achieving scale is important to negotiating rates and service levels. These exclusivity provisions are typically demanded by the cable provider. In other areas, such as voice services, a preferred provider is typically offered as an alternative to other providers.

Expansion of Satellite Dish Rules

- The FCC should not expand the rules to include data and other services, because the law only applies to antennas used to receive video programming.

- Expanding the rules creates legitimate safety concerns for tenants. The proliferation of satellite dish installations, for example, would exaggerate a safety and aesthetic problem currently encountered in the apartment industry (unauthorized installation of satellite dishes on balconies, etc.).

In conclusion, we urge the FCC to consider carefully any action it may take, as we believe that the current proposals are unwarranted and unconstitutional. Thank you for your attention to our concerns.

Cordially,

SECURITY CAPITAL GROUP
INCORPORATED

Paul E. Szurek
Chief Financial Officer